

Amend Sections 1.62, 5.80, 27.60, 27.90,  
27.95, 195, and 701  
Add Sections 5.81 and 27.91  
Title 14, California Code of Regulations  
Re: Sturgeon Sport Fishery Regulations

- ## Summary

The proposed regulations include a size limit for white sturgeon of 46 to 60 inches total length, no retention of green sturgeon, a daily bag limit of one white sturgeon, an annual

bag limit three white sturgeon, no authorization of boat limits when sturgeon fishing in ocean waters, and an annual sturgeon report card with tags.

If the regulations proposed here are implemented and substantially enforced, the fundamental character of California's sturgeon fishery will be preserved while important additional fishery management, population management, and anti-poaching measures will be effected.

### **Background**

This section provides a brief account of California's sturgeon, the sturgeon fishery, and the results of recent extensive public feedback on fishing regulations.

*California's Sturgeon* – Green sturgeon and white sturgeon are native to California. They spawn during spring in rivers (predominantly the Sacramento River and some of its tributaries). They rear and forage year-round in bays, estuaries, and the ocean. The Sacramento-San Joaquin river system is the southern-most extent of green sturgeon and white sturgeon spawning. Their life-history characteristics (e.g., large maximum size potential; late maturity; infrequent spawning after maturity) are uncommon among freshwater fishes and these characteristics are a major reason many species of sturgeon are at documented risk of extinction.

California's sturgeon, as with sturgeon world-wide, are highly-prized for their roe and flesh. Due to their life-history characteristics, all sturgeon are particularly prone to overharvest. The spawning potential of sturgeon increases as female sturgeon length increases, so conservation of large female sturgeon is prudent and is practiced wherever sturgeon are actively managed.

*Green Sturgeon* – Green sturgeon in California were listed April 2006 as threatened under the Federal Endangered Species Act. Little is known about their abundance and population structure, but the best available evidence suggests their population is low and not resilient. While the suite of protections to be afforded green sturgeon by virtue of their listing have not yet been established, sport fishing for green sturgeon is described by the National Marine Fisheries Service as one of several threats to survival of the species.

*White Sturgeon* – White sturgeon in California are relatively well-studied. A severe depletion of California's adult white sturgeon in the late 1800s resulted in a decades-long complete fishery closure. The closure was lifted in the 1950s, when the white sturgeon in California had become abundant enough to support a relatively small sport fishery. The legal sized population of white sturgeon is known to vary substantially. Indications are that the present abundance of legal sized white sturgeon may be as low as 10,000 after peaking at approximately 144,000 in 1999. In contrast, the number of legal sized adult striped bass recently exceeded 1,500,000.

White sturgeon in California mature at 10-15 years old, can reach a maximum size of greater than 10 feet, and can live more than 100 years. The demographics of lightly-fished populations of fishes with these life-history characteristics usually include a substantial number of relatively old individuals. Most white sturgeon captured (released or retained) in the San Francisco Estuary and Sacramento-San Joaquin River System during the spring of 2006 were approximately 45 inches total length fish in the 9-12 year-old demographic, strongly indicating that a very small fraction of white sturgeon survive beyond young-adulthood under the environmental and regulatory conditions of the last two decades.

Total white sturgeon population resiliency is unknown, because the number of white sturgeon less than 46 inches total length and the number of white sturgeon greater than

72 inches total length has never been estimated using scientific means. The best available scientific evidence and reports from anglers suggests the number of white sturgeon greater than 72 inches total length is very low. Conservative measures are called for when sturgeon population resiliency is not known and/or is suspected to be low.

*The Sturgeon Fishery* – Sturgeon in California are targeted by individuals from boat, shore, and pier; during guided fishing trips; and from Commercial Passenger Fishing Vessels. The approximate number of anglers who fish for sturgeon is not known. The two most-recent rigorous creel surveys show that 1999-2000 fishing effort from Carquinez to Redding – during daylight hours only – averaged approximately 250,000 hours. Because substantial fishing effort for sturgeon is made during night-time hours and throughout the San Francisco Estuary, recent annual fishing effort probably exceeded 500,000 hours.

*Public Discussion of Fishing Regulations* – The feasibility and efficacy of the proposed measures were discussed with anglers, angler-group representatives, and conservation organizations in public meetings during spring 2006. These discussions included:

- (1) Taking preventive action in the face of uncertainty (e.g., status of the sturgeon populations and the effect of sportfishing, poaching, and habitat changes),
- (2) exploration of a wide range of alternatives to improving the sturgeon populations and fishery,
- (3) more public participation in data-collection and decision making, and
- (4) substantial contrasts between California's sport fishing regulations and fishery with the more-developed regulations for sturgeon co-managed by Oregon and Washington.

The public discussions yielded near-consensus on the merits and feasibility of the following approaches to – if the not specific details of – California's sturgeon management through sport fishing regulations.

### **Regulation Specific Details**

The following proposed amendments and additions to Title 14, California Code of Regulations (CCR), are basic conservation measures expected to improve fishing for – and the resiliency of – California's white sturgeon and green sturgeon, and to provide useful information on the population and patterns in sturgeon fishing.

Section 1.62, Title 14, CCR: Section 1.62 addresses handling requirements for fish to be released due to size restrictions. However, Section 1.62 references only handling of fish that are less than the legal size.

The proposed amendment to Section 1.62 would extend the protections now afforded fish less than legal size to fish greater than legal size. Handling requirements afforded fish – particularly sturgeon – greater than legal size are basic conservation measures designed to minimize stress and mortality to captured fish that must be released.

Sections 5.80 and 27.90, Title 14, CCR: These sections limit retention of sturgeon for inland (Section 5.80) and ocean (Section 27.90) waters. The current sections do not differentiate between white sturgeon and green sturgeon.

The proposed amendment removes green sturgeon to their own section and includes measures to improve white sturgeon spawning potential, population resiliency, fishery data, and anti-poaching efforts:

- (1) a white sturgeon size limit of 46 to 60 inches total length,
- (2) a 3-fish-per-year white sturgeon bag limit,

- (3) specific requirements for a Sturgeon Fishing Report Card, and
- (4) a requirement to apply tags to retained white sturgeon.

The size limit would protect approximately 12 year-classes of sturgeon from harvest during a period when female sturgeon of this size and age have tremendous reproductive potential.

The 3-fish annual bag limit would allocate the sturgeon resource more-equitably and reduce the incentive for illegal commercialization of sturgeon.

The report card with tags would be necessary to enforce the annual bag limit and to collect much-needed information on catch of sturgeon by anglers. Because enforcement of the annual bag limit and collection of catch data are both very important, possession of the card and use of the tags would be required of children and other potentially non-licensed anglers (e.g., those participating fishing from piers). These potentially non-licensed anglers were recently estimated at about 16 % of all anglers in marine waters during 2004 and 2005.

#### Sturgeon Fishing Report Card Requirements

- (1) Any person fishing for sturgeon shall have in their possession a nontransferable Sturgeon Fishing Report Card issued by the department
- (2) This includes anglers who are under 16 years of age, anglers who are fishing from a public pier, and anglers who hold a lifetime fishing license. Anglers who are under 16 years of age may purchase a sturgeon fishing report card without purchasing a sport fishing license.
- (3) A Sturgeon Fishing Report Card shall be valid for the calendar year as shown on the report card.
- (4) No person may purchase more than one Sturgeon Fishing Report Card per year or possess any Sturgeon Fishing Report Card other than their own.
- (5) Anglers must return their card by January 31 of the following year shown on the report card to the address specified on the Sturgeon Fishing Report Card.
- (6) If the angler holds a sport fishing license, the report card number shall be entered in ink on the angler's sport fishing license, and the sport fishing license number shall be entered in ink on the report card on the appropriate line.
- (7) Whenever the cardholder catches a sturgeon, whether the fish is retained or released, the cardholder shall use a ball point pen to immediately record on the Sturgeon Fishing Report Card all of the following information: month and day, catch location, and species of sturgeon. If a white sturgeon is retained, the total length of the fish must also be recorded on the report card immediately.

#### Sturgeon Tagging Requirements

- (1) A Sturgeon Fishing Report Card includes three tags that are to be used to tag any white sturgeon that is retained.
- (2) After retaining a white sturgeon the date the fish is taken shall be immediately recorded on the tag with a ball point pen.
- (3) The angler shall immediately attach the tag to the body of the white sturgeon, and leave the tag in place until the fish is processed, steaked, or filleted for consumption and stored at a residence or non-transient location.

Sections 5.81 and 27.91, Title 14, CCR: This action would create sections specific to green sturgeon for inland (Section 5.81) and ocean (Section 27.91) waters, eliminate retention of green sturgeon, and complement the proposals to amend sections 5.80 and 27.90 so that it addresses only limits to white sturgeon retention.

Section 27.60, Title 14, CCR: This section limits retention of sturgeon in ocean waters. With regards to sturgeon, it is simply a table that reiterates information in Section 27.90.

The proposed amendment would make contents of the table consistent with Section 27.90 and no authorization of boat limits while sturgeon fishing in ocean waters to align with proposed Section 195 changes. Furthermore, the amendment would complement the proposed establishment of Section 27.91 on green sturgeon retention.

Section 27.95, Title 14, CCR: This section limits take of sturgeon in an area of San Francisco Bay between January 1 and March 15. The proposed amendment is a slight wording change that would complement the proposed changes to sections 27.90 and 27.91.

Section 195, Title 14, CCR: This section contains the regulations for boat limits in ocean waters. The proposed amendment has no authorization of boat limits while sturgeon fishing in ocean waters to ensure accurate data is collected from the report cards.

Section 701, Title 14, CCR: This section contains regulatory form numbers that are incorporated by reference and their fees which are adjusted annually pursuant to the provisions of Section 699, Title 14, CCR.

The proposed amendment provides the annual fee updates for the Declaration for Multi-Day Fishing Trip, Permit Authorizing Transit of a Recreational Fishing Vessel Through Areas Closed to Fishing (Annual and 30 days or less) forms, adds 2007 Salmon Punch Card and 2007 Steelhead Fishing Report and Restoration Card form numbers and fees to this section, reflects the required changes made to sections 5.80 and 27.90 for the Sturgeon Fishing Report Card.

The Sturgeon Fishing Report Card fee will range from \$0 to \$7.50, which are the minimum and maximum permit prices that the Department can charge without legislation. The final fee will be determined from report card printing and administration costs, final funding source, the projected anglers and a 5% license agent handling fee calculated pursuant to Fish and Game Code 1055(b).

Minor changes were made to improve the clarity of the regulations.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 219, 220, 1050, 1055, 7071, 7380 and 8587.1, Fish and Game Code.

Reference: Sections 18, 200-202, 203.1, 205-210, 215-220, 713, 1050, 1055, 7071, 7120, 7380, 7381 and 7382, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

A new report card and tags to be applied to retained white sturgeon.

(d) Identification of Reports or Documents Supporting Regulation Change:

None were identified.

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

A series of public meetings were held in March 2006 prior to the notice publication to gather public input. The 45-day comment period provides adequate time for review of the proposed amendment.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

The two species of sturgeon will continue to be managed as though they did not have different life histories and population resiliencies. The potential for excessive legal retention of sturgeon will remain very high and information on sturgeon and the sturgeon fishery will remain relatively sparse.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed amendments and additions will promote a more stable and productive fishery, with direct benefits to anglers, guides, and bait shops.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, other than the \$0-\$7.50 fee for the Sturgeon Fishing Report Card.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The estimated fiscal impacts to the State government are projected to be approximately \$370,000. These conservative estimates result from costs associated with development and analysis of the sturgeon report cards, regulation development and review, enforcement, Commission review, and public outreach and education.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs Mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

## Informative Digest/Policy Statement Overview

California's green sturgeon and white sturgeon support a popular sport fishery in the San Francisco Estuary and Sacramento-San Joaquin River System and a lesser fishery in the ocean. Green sturgeon and white sturgeon are prone to overfishing due to their life-histories and behavior. Their numbers are also subject to decline attributable to habitat loss and habitat degradation. White sturgeon (in particular) are subject to organized poaching and illegal commercialization of their highly-valuable eggs and flesh.

Current fishing regulations for these two sturgeon species provide a year-round fishery, a daily bag and possession limit of one fish, a size limit of 46 to 72 inches total length, and area and seasonal closures. These regulations do not differentiate between different life histories and population status, ignore the population-effects of varying production of young sturgeon, can not manage the boom-and-bust character of the fishery, and make it difficult to deter poaching and illegal commercialization.

The Department of Fish and Game (Department) is proposing regulations which will facilitate existing efforts to improve California's sturgeon populations and protect the sturgeon fishery by improved habitat, better fish passage, increased population and fishery monitoring, effective enforcement, and comprehensive coordination with the public.

The proposed regulations include a size limit for white sturgeon of 46 to 60 inches total length, no retention of green sturgeon, a daily bag limit of one white sturgeon, an annual bag limit three white sturgeon, no authorization of boat limits when sturgeon fishing in ocean waters, and an annual sturgeon report card with tags.

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